

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

CHARLES ALAN DYER,

Petitioner,

v.

JIM FARRIS, Warden,

Respondent.

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Case No. CIV-16-941-C

ORDER

Before the Court is Petitioner's Motion to Supplement Habeas Filing with Affidavits. [Doc. No. 27]. According to Petitioner, he wishes to attach two affidavits from witnesses who allegedly overheard the State and Petitioner's trial attorney discussing a possible plea agreement. *Id.* Respondent objects [Doc. No. 28]. The Court denies Petitioner's motion.

Though Petitioner uses the phrase "supplement," he actually intends to offer new evidence. However, this Court has already denied Petitioner's prior motion for an evidentiary hearing, finding the United States Supreme Court, in *Cullen v. Pinholster*, 563 U.S. 170 (2011), made clear the limitations imposed on the discretion of federal habeas courts to conduct evidentiary hearings. [Doc. No. 26, *citing Cullen*, 563 U.S. at 185-86].

Accordingly, Petitioner's request to supplement to add new evidence is denied. The Court has not yet conducted its review of the state-court record, the petition, and the parties' briefing. If appropriate, and following such review, the Court will revisit the issue to determine whether Petitioner should be allowed to submit his evidence.

IT IS THEREFORE ORDERED that Petitioner's Motion to Supplement Habeas Filing with Affidavits [Doc. No. 27] is denied without prejudice to further consideration by the Court of the issues raised therein as may be appropriate.

IT IS SO ORDERED this 28th day of November, 2017.

A handwritten signature in blue ink, appearing to read "B.M.J.", is written above a horizontal line.

BERNARD M. JONES
UNITED STATES MAGISTRATE JUDGE